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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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STATE DOCUMENTS

CONTENTS

WEEK IN REVIEW	02
HOUSE COMMITTEE ACTION	04
BILLS INTRODUCED IN THE HOUSE THIS WEEK	10

OFFICE OF RESEARCH

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legislation also delays requirements for the State Law Enforcement Division to implement certain provisions relating to the compulsory process for obtaining witnesses until the General Assembly provides funding for the program.

The House appointed a conference committee to work out differences with the Senate on H.3307, a bill pertaining to **appropriation of South Carolina Education Lottery proceeds**.

The House approved and sent to the Senate H.4670, a bill revising **driver's license issuance/renewal for foreigners**. Current law allows issuance or renewal of a driver's license to persons from other countries who are present in South Carolina on a student visa or on a work visa, or their dependents. This bill eliminates that provision and provides that for purposes of determining eligibility to obtain or renew a South Carolina driver's license, the term "resident of South Carolina" includes all persons authorized by the U.S. Department of Justice, the U.S. Immigration and Naturalization Service, or the U.S. Department of State to live, work, or study in this country on a temporary or permanent basis who present documents indicating their intent to live, work, or study in South Carolina. The bill provides that these persons are eligible to obtain or renew a driver's license.

The House approved and sent to the Senate H.4818. This bill makes numerous **revisions to the *South Carolina Nonpublic Post-Secondary Institutions License Act***. These revisions include, but are not limited to:

- Adding definitions for "operating or soliciting" and "religious or theological training."
- Revising the current exclusions from the definition of "nonpublic educational institution" so as to include in the exclusions:
 - noncredit bearing courses or programs sponsored by employers solely for the training of their employees if:
 - the training is conducted by an employee of the sponsoring employer or if the sponsoring employer contracts with a provider to conduct the training;
 - the sponsoring employer bears the expense of providing the training by paying the training provider directly, and this provision does not mean paying the employee after the employee pays; and
 - the sponsoring employer allows employees to attend the training on company time if the training takes place during regular work hours;
- Noncredit bearing courses or programs that do not prepare or qualify individuals for employment in any occupation or trade sponsored by recognized trade, business, or professional organizations solely for the instruction of their members;
- Out-of-state institutions that formally collaborate with public South Carolina institutions in offering distance education coursework in this State and where the South Carolina institution offers the degree;
- Institutions that offer programs and courses on federal military installations.

while he or she is a minor. The custodial property is distributed when the payee attains the age of twenty-one, but the custodian may, in his discretion, deliver the custodial property when the payee attains the age of eighteen. The bill also makes revisions to durable power of attorney provisions, under which an individual can name someone attorney-in-fact to handle business and property transactions. This power of attorney continues to be effective even if the giver of the power becomes incapacitated. The bill provides conditions under which third parties, such as banks or brokerage firms, shall not refuse to honor a durable power of attorney. The bill provides that an attorney-in-fact shall receive reasonable compensation upon approval of the probate court, if compensation is not specified in the power of attorney arrangement. The bill establishes conditions under which an affidavit, rather than a judicial finding of mental incapacity, would authorize the opening of a safe deposit box for an individual named in a durable power of attorney to obtain the original power of attorney document. The bill also expands the State's Probate Code rules of construction to extend the coverage of the anti-lapse statute to revocable trusts and revoke provisions in a trust instrument for a divorced spouse.

The Committee gave a report of favorable with amendment on **H.4775**, a bill pertaining to the **records of testimony before magistrates and municipal courts**. This bill provides that magistrates and municipal courts must retain recorded testimony for at least sixty days. If such record keeping requirements are not met, then an appellate court may grant the defendant a new trial upon an appeal of the verdict.

The Committee gave a report of favorable with amendment on **H.4740**, a bill enacting the **"Municipal Finance Oversight Act of 2002."** The bill creates the Municipal Finance Oversight Commission and an Executive Committee of the commission. The bill provides for their composition, powers, duties, and responsibilities. The legislation requires municipalities to submit annual financial reports and annual audits. The bill provides for sanctions against municipalities that fail to comply with the commission's plan for refinancing, adjusting, or compromising a debt. The bill provides penalties for an officer or employee of a municipality who fails to comply with the provisions of this act. The bill revises a provision relating to the requirement of a financial report submitted by counties and municipalities to the Comptroller General, so as to require the report be submitted instead to the Municipal Finance Commission.

The Committee gave a report of favorable with amendment on **H.4683**, the **South Carolina Student-Led Message Act**. This bill authorizes the governing body of a school board or school district to adopt policies that permit the use of a brief opening or closing message by certain students at a high school graduation exercise and at a high school athletic or other event. The bill provides the conditions under which such messages may be delivered.

The Committee gave a favorable report on **H.3939**. Under this bill, the governing body of each county may exempt by ordinance all or any part of an area within a radius of one mile from a shooting range from the **"Shooting Range-Noise Area" sign requirements**.

appropriate federal authority. Under the bill, the sheriff is authorized to approve such contracts. The legislation provides for the distribution and expenditure of this fee.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Tuesday, March 26, and gave a report of favorable with amendment on **H.4096**, a bill that revises South Carolina's insurance laws so as to bring them into **compliance with National Association of Registered Agents and Brokers (NARAB) provisions**. Under the Gramm-Leach-Bliley Act, should states fail to either enact uniform laws or reciprocity laws by November 12, 2002, the National Association of Registered Agents and Brokers (NARAB) will be established to provide a mechanism through which uniform licensing, appointment, continuing education, and other requirements can be adopted and applied on a multi-state basis. This bill provides revisions necessary for South Carolina to comply with NARAB provisions by establishing reciprocity laws. The legislation creates uniformity in such matters as exemptions from producer licensing, the application process, license fees, education requirements, and standards for commission sharing.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The Medical, Military, Public and Municipal Affairs Committee reported favorable (with a minority report) on **S.49**. This bill **legalizes the practice of tattooing by persons who are not physicians**. It mandates the use of strict sterile surgical techniques for tattooing and prohibits tattooing of the head, face or neck. It also makes it unlawful for anyone to perform tattooing on a person who is:

- under the age of 21 without the consent of the client's parent or legal guardian,
- impaired by drugs or alcohol, or
- with a skin rash, pimples, boils, infections or unhealthy conditions at the tattoo site.

Under this bill, every tattoo artist in South Carolina will be required to register with the Department of Health and Environmental Control (DHEC). A tattoo artist must be at least 21 years old and have a current Red Cross First Aid Certification, a CPR certification, and must successfully complete a DHEC-approved course in blood borne pathogens and tattooing infection control. The first aid certification must be renewed every 3 years, and the CPR certification must be renewed annually. A tattoo artist must conspicuously display these certifications and his DHEC permit in the tattoo facility where he works.

Under this bill, in order for a tattoo facility to receive a DHEC permit the operator must:

Under the bill, in order to register as a certified pharmacy technician, an applicant would have to meet the following qualifications:

1. Prior to July 1, 2004 the applicant must have worked 1,500 hours under the supervision of a licensed pharmacist or complete an approved pharmacy technician course. Beginning July 1, 2004, an applicant must have worked 1,000 hours under the supervision of a licensed pharmacist and must have completed an approved technician course;
2. The applicant must have a high school diploma or equivalent;
3. The applicant must pass the National Pharmacy Technician Certification Board exam or a Board approved exam and maintain national certification; and
4. The applicant must fulfill continuing education requirements.

Under the bill, a supervising pharmacist may authorize a certified pharmacy technician to perform the following expanded duties that a non-certified technician is not allowed to perform:

1. receive and initiate verbal telephone orders;
2. conduct one-time prescription transfers;
3. check a technician's refill of medications if the medication is to be administered by a licensed health care professional in an institutional setting; and
4. check a technician's repackaging of medications from bulk to unit dose in an institutional setting.

The bill also requires, beginning with the next registration renewal period after June 30, 2003, that all pharmacy technicians, both certified and non-certified, will be required to complete 10 hours of continuing education each year.

The bill specifically states that a pharmacist is not required to hire a certified pharmacy technician.

The bill also makes the following substantive changes to current law:

1. Establishes the Board's authority to charge a registration fee for pharmacy technicians and requires a technician to carry his or her registration card;
2. Clarifies that emergency medical services (EMS) are exempt from licensure fees and allows the EMS medical director to perform the duties that would be done by a consultant pharmacist for the EMS service;
3. Allows a durable medical equipment (DME) facility to use a medical director, registered nurse, or respiratory therapist to perform the duties that would be done by a consultant pharmacist for the DME facility;
4. Allows pharmacy inspections to be performed by a pharmacist designee rather than by a Board inspector. This change would allow these inspections to be done by a contract pharmacist or by a Board member; and
5. Expands the circumstances in which a pharmacy must notify the Board regarding theft of drugs or other violations of state or federal drug laws.

EDUCATION AND PUBLIC WORKS

S.561 *CONDITIONAL TEACHING CERTIFICATES* Sen. Setzler

This bill deletes the "conditional teaching certificate" and provides instead for awarding a teaching "credential" to a person changing careers who does not qualify for a professional teaching certificate but who meets certain other specified criteria. The bill provides that a person seeking a teaching credential must also possess at least two years' experience and pass the appropriate subject area examination adopted by the board. The bill provides conditions for renewal of the teaching credential.

JUDICIARY

H.4966 *PROPOSED CONSTITUTIONAL AMENDMENT FOR FOUR-YEAR TERMS FOR MEMBERS OF THE HOUSE OF REPRESENTATIVES* Rep. R. Brown

This joint resolution proposes amending the South Carolina Constitution such that, beginning in 2004, members of the House of Representatives must be chosen every fourth instead of every second year.

H.4971 *FOUR-YEAR TERMS FOR MEMBERS OF THE HOUSE OF REPRESENTATIVES* Rep. R. Brown

Contingent upon voter approval of the pertinent amendment to the State Constitution, this bill revises the election date for members of the House of Representatives, so as to provide the election date is the Tuesday after the first Monday in November of every other even-numbered year.

H.4974 *PROPOSED CONSTITUTIONAL AMENDMENT REVISING PROHIBITION ON PUBLIC OFFICERS GAMBLING* Rep. Scott

This joint resolution proposes amending the South Carolina Constitution's prohibition on public officers gambling or betting on games of chance, so as to provide that the prohibition applies only to the Governor, constitutional officers, and members of the General Assembly and to provide that the prohibition also applies to participation in lotteries conducted by the state of South Carolina.

H.4977 *CRIMINAL STREET GANG PREVENTION ACT* Rep. Knotts

This bill enacts the criminal street gang prevention act to provide various criminal offenses for the participation in a criminal street gang or participation in activities benefiting, promoting, or furthering the interests of a criminal street gang. The bill establishes offenses relating to weapons use and possession, graffiti, and drive by shootings. The bill creates a civil cause of action in favor of the State or a political subdivision of the State for damages caused by criminal gang activity. Under the bill, the State Law Enforcement Division must develop a statewide Criminal Street Gang Database to facilitate the exchange of certain information between law enforcement agencies relating to criminal street gangs and gang-related incidents.

WAYS AND MEANS

S.675 REDEVELOPMENT PROJECTS Sen. Thomas

This bill amends the definition of "redevelopment project" under the Tax Increment Financing Law so as to allow a redevelopment project to be located outside of the redevelopment area provided the municipality makes specific findings of benefit to the redevelopment project area and the project area is located within the municipal limits. The bill also lengthens the period within which a municipality may issue the initial obligations to finance the redevelopment project upon adoption of an ordinance. The bill lengthens this period from five years after adoption of an ordinance for approval of a redevelopment plan, to ten years after adoption of such an ordinance, and the bill provides that obligations may be issued subsequent to the initial ten-year period. The bill also requires a municipality to make, by resolution, a specific finding of benefit to the redevelopment project area and provide written notice to the affected taxing district if the project or a portion of it is located outside of the redevelopment project area.

H.4969 POLICE OFFICERS RETIREMENT SYSTEM Rep. Simrill

This bill allows a member of the Police Officers Retirement System, under particular options of that system, to receive a full retirement allowance rather than a reduced allowance under certain conditions.

H.4973 PROPERTY TAX REFUND FOR PARENTS AND GUARDIANS OF HOME-SCHOOL OR PRIVATE SCHOOL STUDENTS Rep. Davenport

This bill establishes and provides for a refund of the school portion of property taxes on the real and personal property paid by the parent or guardian of a student in grades K-12 who is home schooled or who attends a private school.

H.4979 GROSS INCOME Rep. Davenport

This bill provides that South Carolina gross income does not include gain received by the taxpayer for real property and any improvements located on the property which has been condemned pursuant to the South Carolina Eminent Domain Procedure Act.

H.4980 HIRING OF RETIREES Rep. Kelley

This bill clarifies that the hiring of a retired member of the South Carolina Retirement System by a covered employer is at the sole discretion of the employer.

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